

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

UNITED STATES OF AMERICA *

vs.

* CRIMINAL NO. MJG-17-069

HAROLD T. MARTIN III *

* * * * *

ORDER RE: LEGAL HEARING

I find the need for a hearing addressing specifically what it is the Government must prove to establish the Defendant's requisite knowledge and/or intent.

Count One of the Indictment, for example, charges that the Defendant:

"having unauthorized possession of, access to, and control over documents relating to the national defense, willfully retained the documents and failed to deliver them to the officer or employee of the United States entitled to receive them: to wit, MARTIN retained documents relating to the national defense at his residence and in his vehicle without authorization," including [Classified Document A], an NSA document.

Indictment ¶ 26, ECF No. 33.

Of course, the Government must prove that Martin possessed Document A without authority. However, what must it prove regarding Martin's knowledge of that possession? Must it prove that Martin knew that he possessed Document A? What must the Government prove regarding Martin's specific knowledge of his possession of Document A? Assuming the Government will prove that Document A was included

within a pile of documents and that Martin knew he possessed the pile, must he have known that the pile includes that specific document? And, what must the Government prove that Martin knew about the contents of Document A, i.e., whether it contained national defense information?

Accordingly:

1. The parties shall contact chambers to schedule a hearing date to be held before March 6, 2018.
2. By February 23, 2018, the parties shall submit briefs regarding their positions as to what the Government must legally prove in order to prove Defendant Martin guilty of the charged crimes.
3. By February 28, 2018, any responses shall be filed.

SO ORDERED, this Friday, February 16, 2018.

/s/
Marvin J. Garbis
United States District Judge